IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.4477 of 2007
Date of Decision: 23.3.2007

Vaish College of Engineering, Rohtak

Petitioner

Versus

Smt.Patasho w/o Sh.Rajinder Singh and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Alok Jain, Advocate for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed against award dated 29.8.2006, passed by the Industrial Tribunal-cum-Labour Court, Rohtak, ordering reinstatement of respondent No.1 with continuity of service and 50% back wages.

Counsel for the petitioner has vehemently contended that service of respondent No.1 was never terminated, rather she abandoned her job and despite efforts made, she failed to re-join the service. It is not in dispute that the workman entered service of the petitioner in the year 1995 and continued as such till June, 2000. As per case of the respondent (workman), thereafter, she was stopped from working with the management, whereas the management has taken a stand that it was a case of abandonment. To say so, it was averred that one co-worker was asked to locate her and tell her to join the duty but she failed. The said worker has not been brought in the witness box to support contention of the petitioner.

The Labour Court, while granting relief to respondent No.1, has observed thus:-

> *"There is no dispute that the workman has continuously worked more than 240 days during his service period as has been admitted by MW-1. It is alleged by the mgt., that the workman has abandoned the service of the mgt., at her own and has placed its reliance on the aforesaid to authorities. In the first authority it is held that notice was given to the workman to join his duty but despite of receipt of the same he failed to join. In conciliation proceeding before the Labour-cum-Conciliation Officer, offer was given to him to join his duty but he failed to join the same. Later on the mgt., had also given him offer to join his duty but despite of it he failed to join the same and he served the mgt. with a demand notice and in these circumstances it was held that the workman has abandoned the service of the mgt, at his own. In the second authority the workman was employed by the mgt. and left the service of the mgt., at his own. Later on he applied for apprenticeship and he was allowed to join as apprentice and in this way it cannot be said that service of the workman was ever terminated by the mgt. Both these authorities are having no help to the mgt., rather these authorities are adverse to the interest of the mgt, and in favour of the workman. Since the workman has tried her level best to join her duty but she was not allowed. So far as question of post of the workman is concerned as to whether she was employed as Peon or Cook is not to be decided by this Court. Taking into consideration the evidence which has been adduced by both the parties, it is amply clear that the service of the workman has*

been terminated in an arbitrary manner. Therefore, I decide this issue in favour of the workman and against the mgt."

We feel that the order passed is perfectly justified. A poor workman was thrown out of service without payment of compensation. Admittedly, she had completed more than 240 days in 12 months, preceding to the date when her service was terminated. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

March 23, 2007 **(Nirmal Yadav)**
gk **Judge**